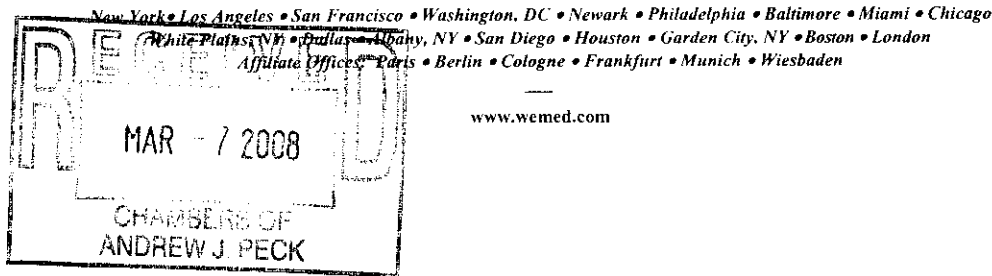


WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

150 East 42nd Street, New York, New York 10017-5639 Tel: (212) 490-3000 Fax: (212) 490-3038



March 6, 2008

VIA FEDERAL EXPRESS

MEMO ENDORSED *p2*

The Honorable Andrew J. Peck
United States Magistrate Judge
Southern District of New York
500 Pearl St, Room 1370
New York, NY 10007

**Re: Roberto Rivera, M.D. v. Ruth Smith, M.D., Jess A. Bunshaft,
and St. Vincent Catholic Medical Center**
Docket No. : 07 CV 3246 (BSJ)(AJP)
Our File No. : 1538.00226

Dear Judge Peck:

We represent the defendants in the referenced case and are writing about an issue that arose with plaintiff immediately after our Rule 16 Pre-trial conference this afternoon. At the outset, we apologize for contacting Your Honor so soon after said conference but we really do need your guidance on this matter.

As Your Honor may recall, during the conference, plaintiff advised that he would depose five to ten witnesses and wanted those depositions to be conducted expeditiously. I expressed concerns about plaintiff's intended deposition schedule and reiterated our need for adequate notice of any depositions noticed by plaintiff. Your Honor directed the parties to meet after the conference to select deposition dates convenient to all parties. I met with plaintiff and he proposed five witnesses, two of whom are direct defendants herein, one is plaintiff's former supervisor and the Chair of the Department of Community Medicine, and two are Nurses employed by the Medical Center. I expressed no objections to producing these witnesses but inexplicably, plaintiff thereafter refused to provide me with his proposed deposition dates so I could ascertain my availability as well as the witnesses' availability. Plaintiff further advised that he had no intention of serving the relevant deposition notices via our office as he was under no obligation to do so, and he expressed his intent to serve the witnesses directly.

Our File No. 01538.00226
Page 2

If this initial meeting with plaintiff is any indication of how discovery will unfold, the parties may well need the Court's intervention to schedule the remaining depositions. We are respectfully requesting the Court's guidance in resolving this issue.

Thank you for your attention and consideration in this matter.

Respectfully,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

Nancy V. Wright

Nancy V. Wright

NVW

cc: Roberto Rivera, M.D.

MEMO ENDORSED 3/7/08

1. Dr Rivera & defense counsel are to try to agree on the dates for depositions, as per any disputes as to deposit schedule with the Court. Both parties shall submit a deposit within first upcoming court day for parties to the date.
2. If the parties do not agree with the Court will issue monetary sanctions on any party not in compliance. Try to get along - things go more smoothly that way.

BY FAX

SO ORDERED:

[Signature]
Hon. Andrew Jay Peck
United States Magistrate Judge

Copy for: Dr Rivera
Mr. Wright
Judge Jones

FAX TRANSMITTAL SHEET



**ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT**

Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: March 7, 2008

Total Number of Pages: 3

TO	FAX NUMBER
Roberto Rivera, M.D.	914-961-5729
Nancy V. Wright, Esq.	212-490-3038

TRANSCRIPTION:

MEMO ENDORSED 3/7/08

1. Dr. Rivera and defense counsel are to try to agree on the dates for depositions, or present any disputes as to deposition scheduling to the Court. No party shall schedule a deposition without first conferring with the opposing party as to the date.
2. If the parties do not cooperate the Court will issue monetary and/or other sanctions on any party and/or counsel. Try to get along – things go more smoothly that way.

Copy to: Judge Barbara S. Jones